

OFFICIAL COPY

Fresno, California

September 27, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Police Chaplain Greg McAllister gave the invocation, and President Dages led the Pledge of Allegiance.

PROCLAMATION OF "SUSAN G. KOMEN BREAST CANCER FOUNDATION CENTRAL VALLEY AFFILIATE DAY" - COUNCILMEMBER PEREA

Read and presented.

RECOGNITION OF THE PEOPLESOFT IMPLEMENTATION TEAM

Recognized.

ADD-ON SURPRISE: PROCLAMATION OF "ASSISTANT CITY ATTORNEY MIKE SLATER DAY" - PRESIDENT DAGES

Read and presented.

APPROVE MINUTES OF SEPTEMBER 20, 2005:

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of September 20, 2005, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

RECOGNIZING THE RECENT PASSING OF MOBILE HOME TENANTS' RIGHTS ADVOCATE MARGE HINCKLY - COUNCILMEMBER BOYAJIAN

Recognized.

KRONOS/COGNOS IMPLEMENTATION AND THE 3-1-1 CALL CENTER - COUNCILMEMBER WESTERLUND

Upon question of Councilmember Westerlund, City Manager Souza stated an update would be provided this week.

NEW PARKS IMPACT FEES AND REQUEST COUNCIL CONSIDER APPOINTING A PARKS & RECREATION NEEDS ASSESSMENT COMMISSION, MODELED AFTER THE POLICE AND FIRE COMMISSION, TO CONDUCT AN ASSESSMENT AND PRESENT A PLAN - COUNCILMEMBER WESTERLUND

Request made with City Manager Souza responding. Councilmember Duncan later stated his support and requested, if this is done, that the issue of ongoing funding for parks maintenance and repairs is also addressed.

RECOMMEND POLICY DISCUSSION AND OFFICIAL *APPROVAL* OF THE POLICE AND FIRE IMPACT FEE REPORTS VERSUS *ACCEPTING* THE REPORTS - COUNCILMEMBER WESTERLUND

Suggestion made with City Manager Souza responding

WALL STREET JOURNAL ARTICLE ON FRONTIER AIRLINES SERVING MEXICO FROM FIVE (5) U.S. CITIES AND REQUEST TO STAFF TO LOOK INTO ENGAGING FRONTIER IN ADDITION TO MEXICANA AIRLINES TO HAVE TWO INTERNATIONAL CARRIERS - COUNCILMEMBER CALHOUN

Request made.

REQUEST CITY ATTORNEY BRING FORTH A TEMPLATE AND OPTIONS TO ALLOW HOMEOWNERS' ASSOCIATIONS TO OPT OUT OF LANDSCAPE MAINTENANCE FACILITIES OR HAVE THEIR MONEY RETURNED TO THEM - COUNCILMEMBER DUNCAN

Request made with City Attorney Montoy stating something could be brought back for formal approval.

APPROVE AGENDA:

(1-A) AWARD A FIVE-YEAR CONTRACT WITH OPTIONAL EXTENSIONS TO WEST COAST WASTE CO., INC, TULE RANCH/MAGAN RANCH, AND EARTHWISE ORGANICS FOR FOR BENEFICIAL REUSE OF BIOSOLIDS/GREEN WASTE

Removed from the agenda at the request of staff. At the beginning of "Adopt Consent Calendar" Councilmember Boyajian stated there was a conflict of interest with one of the evaluation committee members as the individual used to work for one of the companies, with City Attorney Montoy requesting Councilmember Boyajian send any information he may have to her office. There was further brief discussion during "Adopt Consent Calendar".

(10:15 A.M.) CONTINUED HEARING REGARDING ALTERING SERVICES, THE SPECIAL TAX, AND THE APPROPRIATIONS LIMIT FOR CFD NO. 2, ANNEXATION NO 61, FINAL TRACT NO. 4598

1. RESOLUTION- CONSIDERING CHANGE IN THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX

City Clerk Klisch advised staff was requesting the hearing be continued one week to October 4th at 10:15 a.m. So noted.

(2-A) CONSIDER REQUEST OF MAYOR AUTRY TO RECONSIDER THE AWARD OF A CONTRACT TO BOWEN ENGINEERING AND ENVIRONMENTAL FOR BUILDING DEMOLITION AT 800 AND 808 "M" STREET

Laid over one week at the request of Mayor Autry.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, *as amended*, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

ADOPT CONSENT CALENDAR:

146-83

9/27/05

Councilmember Calhoun pulled Items **1-Q** and **1-U**, and President Dages pulled Item **1-V** from the Consent for discussion/action after adoption of the Consent Calendar.

Relative to Item **1-A**, an unidentified gentleman questioned when the matter would be brought back, with Interim Public Utilities Director Weimiller stating approximately 45 days . Doug Vagim stated he felt there were factual errors in the staff report and he hoped they would be corrected, with City Manager Souza stating there may be disagreement but there were no factual errors.

Harold Tokmakian, 2721 E. Garland, spoke in support of Item **1-F**.

(1-B) APPROVE THE ACQUISITION OF A 912 SQUARE-FOOT STREET EASEMENT AND USE OF A 1,448 SQUARE-FOOT CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY TWIN FURNITURE STORE #5, INC., AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT AND CONSTRUCTION EASEMENT, EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-C) APPROVE SALE OF LAND TO THE COUNTY OF FRESNO NECESSARY FOR THE WIDENING AND IMPROVEMENT OF FRIANT ROAD FOR THE APPRAISED VALUE OF \$9,000, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO SIGN ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY

(1-D) APPROVE REQUEST FROM AMERICAN PAVING CO., INC., TO SUBSTITUTE BILL NELSON GENERAL ENGINEERING CONSTRUCTION, INC., WITH HAYDEN CONSTRUCTION, INC., FOR THE UNDERGROUND UTILITY PORTION OF THE SHAW/WEST INTERSECTION IMPROVEMENT PROJECT AND THE SHAW/FELAND AVENUES BUS BAY PROJECT

(1-E) RESOLUTION NO. 2005-408 - APPROPRIATING \$119,400 FOR THE FORMATION OF CFD NO. 2005-01 AND COMMUNITY FACILITIES MAINTENANCE DISTRICT NO. 14, BOTH FOR TENTATIVE TRACT NO. 5350, THE RUNNING HORSE DEVELOPMENT

(1-F) RESOLUTION NO. 2005-409 - 28TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$225,800 IN PROPOSITION 12 PARKS & RECREATION GRANT FUNDS TO FUND PHASE I CONSTRUCTION OF THE EATON PLAZA AMPHITHEATER PROJECT

1. AWARD A CONTRACT IN THE AMOUNT OF \$544,950 FOR THE BASE BID TO DL CONSTRUCTION OF FRESNO FOR THE PROJECT

(1-G) APPROVE GRANTING OF FLOOD AND AVIGATION EASEMENTS AND ISSUANCE OF A NOTICE AND ACKNOWLEDGMENT FOR RIGHT TO FARM, SUBJECT TO APPROVAL AS TO FORM BY THE PUBLIC WORKS DIRECTOR AND CITY ATTORNEY, FOR THE AL RADKA COMMUNITY PARK ON BELMONT AVENUE EAST OF SUNNYSIDE AVENUE

(1-H) APPROVE EXTENSION OF THE CONSULTING AGREEMENT WITH COST RECOVERY SYSTEMS, INC., A FIRM ENGAGED TO ASSIST THE CITY IN PREPARING AND FILING STATE-MANDATED REIMBURSEMENT CLAIMS

(1-I) AUTHORIZE THE CITY MANAGER TO EXECUTE A RENEWAL AGREEMENT AND AMENDMENT (FY05) WITH THE FRESNO COUNTY INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES (ICCF) FOR FY 2006 AND APPROVE \$10,000 AS THE CITY'S SHARE AS A SPONSORING MEMBER

(1-J) RESOLUTION NO. 2005-410 - AUTHORIZING ACCEPTANCE OF THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE 2005 CYCLE BULLETPROOF VEST PARTNERSHIP GRANT AWARD OF \$24,525 AND EXECUTION OF DOCUMENTS

1. RESOLUTION NO. 2005-411 - 24TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$24,600 INTO THE POLICE DEPARTMENT'S FY06 BUDGET FOR THE BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM

(1-K) RESOLUTION NO. 2005-412 - 25TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$171,000 OF THE STATE HOMELAND SECURITY GRANT 2004 EXPENDITURE REIMBURSEMENT TO COMPLETE GRANT RELATED PURCHASES

(1-L) RESOLUTION NO. 2005-413 - 26TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$48,000 INTO THE FY06 BUDGET FOR THE "COPS IN SCHOOLS" GRANT PROGRAM

(1-M) CONSIDER THE PROPOSED BYRD-CLOVIS NO. 1 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR

THE DETACHMENT OF TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO

146-84

9/27/05

1. AFFIRM CITY COUNCIL ACTION OF 6/7/05, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-04-87/T-5376 DATED 10/28/04, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR

2. **RESOLUTION NO. 2005-414** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED BYRD-CLOVIS NO. 1 REORGANIZATION

(1-N) CONSIDER THE PROPOSED HEATON-BURGAN NO. 1 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO

1. AFFIRM CITY COUNCIL ACTION OF 12/14/04, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-04-78/T-5377 DATED 8/24/04, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR

2. **RESOLUTION NO. 2005-415** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED HEATON-BURGAN NO. 1 REORGANIZATION

(1-O) **RESOLUTION NO. 2005-416** - APPROVING THE FINAL MAP OF TRACT NO. 5458 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, S. SUNNYSIDE AND E. JENSEN AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPING MAINTENANCE

2. AUTHORIZE THE FIRE CHIEF TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT REQUIRING CERTAIN FIRE PROTECTION TO BE PROVIDED AND MAINTAINED

3. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES FOR CERTAIN LOTS

4. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS ACKNOWLEDGING RIGHT-TO-FRA, LAW

(1-P) **RESOLUTION NO. 2005-417** - APPROVING THE FINAL MAP OF TRACT 5325 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, N. POLK AND W. GETTYSBURG AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY OFF-SITE FACILITIES

2. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-R) **RESOLUTION NO. 2005-418** - 23RD AMENDMENT TO AAR 2005-286 RE-BUDGETING \$717,900 FROM VARIOUS COUNCIL DISTRICT INFRASTRUCTURE FUNDS BASED ON THE CARRY-OVER BALANCES FROM FY 2005

(1-S) **RESOLUTION NO. 2005-419** - APPROVING THE FINAL MAP OF TRACT NO. 5433 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, N. JEANNE AVENUE BETWEEN W. BULLARD AND N. BRAWLEY AVENUES

1. **RESOLUTION NO. 2005-420** - 30TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$38,300 TO FUND RIGHT-OF-WAY ACQUISITION IN UGM TRACT 5433

2. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT WITH ADDENDUM FOR RIGHTS OF WAY ACQUISITION

3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-T) **BILL NO. B-100 - ORDINANCE NO. 2005-109** - BILL FOR ADOPTION AMENDING THE FRESNO MUNICIPAL CODE REPEALING THE BIKE LICENSE REQUIREMENT

On motion of Councilmember Perea, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

146-85

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Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

CONTESTED CONSENT CALENDAR ITEMS:

(1-Q) AUTHORIZE THE CITY MANAGER AND DESIGNEES THEREOF TO NEGOTIATE AND EXECUTE A FIRE SERVICE TRANSITION AGREEMENT WITH THE NORTH CENTRAL FIRE PROTECTION DISTRICT

Councilmember Calhoun stated this was a technical and legal issue, he felt an explanation was necessary in a transparent manner for the public benefit, and requested an overview/explanation of the transition agreement and on what was happening with two fire stations that were seemingly being treated a little differently adding one was in his district, with Chief Bruegman **(2 - 0)**, City Attorney Montoy and City Manager Souza responding and clarifying issues at length.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the city manager and designees thereof authorized to negotiate and execute a fire service Transition Agreement with the North Central Fire Protection District, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(1-U) BILL FOR INTRODUCTION FIXING THE COMPENSATION OF THE MAYOR AND CITY COUNCIL (ELECTIVE OFFICERS) AND REPEALING ORD. 2000-49

Councilmember Calhoun clarified he agreed with comparisons and research indicating the City Council was underpaid, stated the issue of the position being full-time or part-time was one that each candidate had to think about, spoke to the upcoming ballot measure expanding the City Council from 7 members to 9 and stated maybe salaries should not be adjusted until that time, noted three of his colleagues who will still be in office after he is termed out were opposed to the raise and felt it was not a good idea and stated maybe they had a point and should be listened to, and concluded stating all these things swirled around in his mind since the last vote and he had given the issue a lot of thought.

A motion of Councilmember Duncan, seconded by Councilmember Sterling, to introduce the above bill failed, by the following vote:

Ayes : Boyajian, Duncan, Sterling
 Noes : Calhoun, Perea, Westerlund, Dages
 Absent : None

(1-V) APPROVE AN ADDITIONAL 12-MONTH EXTENSION TO THE INTERIM CONTRACT WITH WEST COAST ARBORISTS, INC., OF ANAHEIM, CA, ON A MONTH TO MONTH BASIS IN THE ESTIMATED AMOUNT OF \$500,000 FOR MUNICIPAL STREET TREE SERVICES

1. REJECT ALL BIDS FOR A RFP REQUIREMENTS CONTRACT FOR MAINTENANCE OF THE STREET TREE COMPONENT OF THE MUNICIPAL FOREST

Patrick Mahoney, President of West Coast Arborists (WCA), 5424 N. Barcus, spoke to their work with the City and to the history of the RFP issue, stated two separate evaluation committees determined WCA was the lowest and most qualified bidder, and recommended the contract be awarded to WCA as recommended by staff last month.

L. Keith Ogburn, Attorney for Tree Elements, urged the bids not be rejected, stated staff's report was incomplete and contained inaccurate information and explained, and stated Tree Elements was well qualified.

Councilmember Calhoun stated he was frustrated, he thought staff would have been making a recommendation for award, and questioned why the city was still "goofing around" with this, why bids were being rejected, if something was broken procedurally, who sets the specifications, and if the city attorney had any comments on the process, with Street Manager Adams, General Services Director Nerland, City Attorney Montoy, City Manager Souza and Acting Purchasing Manager Schramm responding to questions and clarifying issues throughout.

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Councilmember Calhoun made a motion to refer the matter to staff to report back with a recommendation under the current RFP process, which motion died for lack of a second. A motion and second was then made to approve staff's recommendation.

WCA and Tree Elements officials responded to numerous questions of Councilmember Boyajian including their bids, bid specifications, the process, their companies, what WCA's low bid was based on, what changed, reasons for price increases, why not many companies responded, if Tree Elements contracted with the city before, and if the specifications changed from five years ago.

Mr. Nerland clarified staff was asking for a month-to-month extension and they anticipated to be back before Council in 60 days. President Dages spoke in support of WCA stating they have provided great service for 12 years.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, an additional 12-month extension to the interim contract with West Coast Arborists, Inc., of Anaheim, CA, on a month to month basis in the estimated amount of \$500,000 for municipal street tree services hereby authorized, and all bids for a Request for Proposal (RFP) requirements contract for maintenance of the street tree component of the municipal forest rejected, by the following vote:

Ayes :	Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Boyajian, Calhoun
Absent :	None

Councilmember Calhoun stated he did not know what happened here but it was not someone's finest hour.

(A) APPROVE AN INCREASE TO THE LOAN AMOUNT OF THE HOME BUYER ASSISTANCE PROGRAM TO A MAXIMUM OF \$50,000 - COUNCILMEMBER CALHOUN *(Item pulled from the August 30, 2005, Consent Calendar)*

Councilmember Calhoun spoke to the importance of people being able to purchase homes anywhere in the city, expressed concern that people were being restricted and the money could only be used in targeted areas (with HCD Manager Sigala responding), and stated he supported staff's effort to eliminate the target area designation and made a motion to eliminate the target area designation on the federally-funded First Time Home Buyer Program. Councilmember Boyajian, as Chair of the Inner-City Housing Task Force, spoke in opposition to the motion stating freedom of choice was great but a commitment was made to the inner-city and explained, and stressed having targeted areas has resulted in stable neighborhoods and schools (**Note - due to equipment malfunction the following proceedings were not tape recorded:*) and spoke to the successes, the tremendous growth, and the stability that has occurred with money being put into inner-city neighborhoods.

With no second to the motion on the floor a motion and second was made to approve staff's recommendation.

Councilmember Sterling stated she concurred with Councilmember Boyajian and elaborated on the importance of targeted areas. (**Recording resumes here:*) **(3 - 0)** Councilmember Calhoun clarified his motion would not have prohibited anyone from buying homes in targeted areas, stated target areas sends a message that certain areas in the city are off-limits and that was wrong, and emphasized everyone had a right to live wherever they wanted.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, an increase to the loan amount of the City's Home Buyer Assistance Program to a maximum of \$50,000 hereby approved, by the following vote:

Ayes :	Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Calhoun
Absent :	None

(9:00 A.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED COMMUNICATION**APPEARANCE BY JOE AND COE SAHAKIAN REGARDING CODE ENFORCEMENT**

Appearance made; no action taken.

146-87

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(B) UNSCHEDULED COMMUNICATION

Upon call, no one wished to be heard.

RECESS - 10:25 A.M. - 10:39 A.M.**(9:05 A.M.) APPROVE AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE BUSKE GROUP REGARDING CABLE TV FRANCHISE RENEWAL**

Councilmember Duncan recused himself from the proceedings due to stock ownership in Comcast and left the meeting at 10:39 a.m.

Information Services Director Hendricks gave an overview of the issue, all as contained in the staff report as submitted, and stated the City was reaching the critical stages of negotiations and requested approval.

Speaking in support of the issue were: Mike Rhodes, 4773 N. Arthur; and Silas (last name inaudible), member of the Southeast Asian community.

A motion and second was made to approve staff's recommendation. Councilmember Sterling stated she wanted Council to be kept in the loop adding it helps to make the process smoother. Upon question of Councilmember Perea, Mr. Hendricks stated Council members could, at any time, call or email their input to staff relative to what they would possibly like to see negotiated and/or in the agreement.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, **RESOLVED**, Amendment No. 2 to the agreement for professional services with The Buske Group hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None
Recused:	Duncan

(10:00 A.M.) HEARING TO CONSIDER THE "WINERY ESTATES" CONDOMINIUM CONVERSION APPLICATION AND VESTING TENTATIVE TRACT MAP NO. 5409, FILED BY UNITED DEVELOPMENT GROUP, INC., NORTHWEST CORNER OF E. MCKINLEY AND N. WINERY AVENUES**1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR E.A. NO. T-5409****2. RESOLUTION NO 2005-421 - APPROVING VESTING T.T. MAP NO. 5409 PROPOSING THE CREATION OF A ONE COMMON LOT CONDOMINIUM MAP AND THE CONVERSION OF THE "WINERY ESTATES" MULTIPLE-FAMILY APARTMENT COMPLEX INTO A CONDOMINIUM PROJECT**

Councilmember Duncan returned to the meeting at 10:46 a.m. President Dages announced the time had arrived to consider the issue and opened the hearing.

Planner Bernal gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Dirk Poeschel, 923 Van Ness, representing the applicant, advised multiple meetings were held with tenants to explain the conversion and spoke briefly to their remodeling plans, improvements that would be made, and ownership advantages.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Westerlund requested the clubhouse issue be dealt with as soon as possible and spoke in support of the issue stating this was a good opportunity for more affordable housing and a much needed investment for the area, and made a motion to approve staff's recommendation. Councilmember Boyajian seconded the motion and commended United Development Group on this project, for the tremendous job they have done on other complexes, for revolutionizing condominium conversions, and for investing in the inner-city.

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On motion of Councilmember Westerlund, seconded by Councilmember Boyajian, duly carried, RESOLVED, the environmental finding of a Categorical Exemption for E.A. No. T-5409 issued August 9, 2005, hereby approved, and the above entitled Resolution No. 2005-421 hereby adopted and Vesting Tentative Tract Map No. 5409 approved, subject to compliance with the conditions of approval dated August 17, 2005, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

(10:20 A.M.) CONTINUED HEARING ON THE FORMATION OF CFD NO. 14, FINAL TRACT MAP NO. 5350 - RUNNING HORSE MAINTENANCE

- 1. RESOLUTION NO. 2005-422** - FORMING CFD NO. 14 AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. RESOLUTION NO. 2005-423** - CALLING A SPECIAL MAIL-BALLOT ELECTION
- 3. RESOLUTION NO. 2005-424** - DECLARING ELECTION RESULTS
- 4. BILL NO. B-111 - ORDINANCE NO. 2005-110** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Paff gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Sterling thanked Running Horse developer O'Meara and made a motion to approve staff's recommendation. Councilmember Boyajian also thanked Mr. O'Meara and stated the development would help the Roeding Business Park and Chandler Airport's plans. Upon question of Councilmember Calhoun, Planning & Development Director Yovino, Public Works Director Healey and City Attorney Montoy stated they were comfortable with "pay as you go" option, the City's interests were fully protected, and responded to additional questions relative to why this project was unique, what usually happens with CFDs, and what would happen here.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-422, 2005-423 and 2005-424 hereby adopted, and the above entitled Bill No. B-111 adopted as Ordinance No. 2005-110, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

(10:30 A.M.) CONTINUED HEARING ON R-05-02 AND ENVIRONMENTAL FINDINGS, FILED BY DUNMORE HOMES ON BEHALF OF FRANK & HERKY URABE, WILLIAM & BARBARA GRAHAM, UREKA HERR & NZUE SIONG, ROLAND PEEK, TERRY & PAM CARTER, ROSEMARY RENDON, ROBERT & BENNIE LEININGER, LENNIE & DOLORES HILL, AND JAMES DIRLAM, PROPERTY LOCATED ON THE NORTH SIDE OF E. DAKOTA BETWEEN N. TEMPERANCE AND N. ARMSTRONG AVENUES

- 1. CONSIDER AND ADOPT E.A. NO. R-05-02/T-5461/C-05-22, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

2. BILL NO. B-112 - ORDINANCE NO. 2005-111 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A/UGM AND R-A TO R-1/UGM

President Dages announced the time had arrived to consider the issue and opened the hearing. Planning Manager Haro gave a lengthy, in-depth PowerPoint presentation on the project and rezoning issues and recommended approval.

(4 - 0) Dirk Poeschel, 923 Van Ness, representing the applicant, stated this was a difficult piece of property to develop, the project was the very type of thing contemplated with the general plan, spoke further to the project and related issues including landscaping stating the applicant wanted to be compatible with any wishes Council may direct, and requested a decision be made as quickly as possible so they could proceed with the development of the project.

146-89

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Councilmember Westerlund thanked all involved and stated this was a tremendous development, spoke to the landscaping issue stating he wanted the same pedestrian turf character that was on the Clovis side not only on this project but on all projects all the way down to where Temperance will eventually connect to Freeway 180, stated the turf landscaping was needed for consistency and added the area deserved no less, and questioned what needed to be done to make the landscaping consistent with Clovis', with Mr. Haro stating staff direction was necessary. Councilmember Westerlund clarified he was not insensitive to water requirements but felt there were times when this type of landscaping was needed and made more sense, stated he wanted it pursued, and made a motion to approve staff's recommendation.

Councilmember Boyajian stated he would support Councilmember Westerlund's landscaping request but he could not support the project as a plan was needed for the entire area to know all the impacts. Councilmember Duncan stated he supported the project but had a concern with extending the turf path stating a lot of water intensive landscaping in public areas citywide might be a foolish thing to do in the long run and added everyone needed to be cognizant of making landscaping close to zero-scape. Councilmember Westerlund clarified he was not making a pitch for it citywide and requested a list of previously approved projects with frontages on Temperance Avenue.

On motion of Councilmember Westerlund, seconded by Councilmember Perea, duly carried, **RESOLVED**, the environmental finding for E.A. No. R-05-02/T-5461/C-05-22 date June 21, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-112 rezoning the project site adopted as Ordinance No. 2005-111, by the following vote:

Ayes :	Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Boyajian
Absent :	None

(10:45 A.M.) CONTINUED HEARING TO CONSIDER APPROVAL OF DOCUMENTS ESTABLISHING THE FOLLOWING: NEW QUIMBY ACT PARKLAND DEDICATION FEE, NEW PARKS FACILITY FEE, NEW POLICE FACILITY FEE, CITYWIDE FIRE FACILITY IMPACT FEE, AND RELATED ENVIRONMENTAL EXEMPTION AND CONFORMITY WITH GENERAL PLAN AND IMPACT FEE STUDIES

1. RESOLUTION NO. 2005-425 - 434TH AMENDMENT TO MFS RES. 80-420 ESTABLISHING CITYWIDE QUIMBY PARK FEES, PARK, POLICE AND FIRE IMPACT FEES

2. BILL NO. B-107 - ORDINANCE NO. 2005-112 - ADDING TO THE FRESNO MUNICIPAL CODE REQUIRING THE DEDICATION OF PARKLAND OR PAYMENT OF FEES IN LIEU THEREOF AS A CONDITION OF APPROVAL OF RESIDENTIAL SUBDIVISIONS

3. RESOLUTION NO. 2005-426 - SETTING THE PARKLAND DEDICATION IN-LIEU FEE AMOUNT PURSUANT TO THE FRESNO MUNICIPAL CODE

4. BILL NO. B-108 - ORDINANCE NO. 2005-113 - ADDING TO THE FRESNO MUNICIPAL CODE ESTABLISHING A PARK FACILITIES FEE

5. RESOLUTION NO. 2005-427 - ADOPTING A PARK FACILITIES FEE TO BE IMPOSED UPON FUTURE DEVELOPMENT IN THE CITY OF FRESNO PURSUANT TO THE FRESNO MUNICIPAL CODE

6. BILL NO. B-109 - ORDINANCE NO. 2005-114 - ADDING TO THE FRESNO MUNICIPAL CODE ESTABLISHING A POLICE FACILITIES FEE

7. RESOLUTION - ADOPTING A POLICE FACILITIES FEE TO BE IMPOSED UPON FUTURE DEVELOPMENT IN THE CITY OF FRESNO PURSUANT TO THE FRESNO MUNICIPAL CODE (OPTION 1 - not adopted)

8. RESOLUTION NO. 428 - ADOPTING A POLICE FACILITIES FEE TO BE IMPOSED UPON FUTURE DEVELOPMENT IN THE CITY OF FRESNO PURSUANT TO THE FRESNO MUNICIPAL CODE (OPTION 2)

9. BILL NO. B-110 - ORDINANCE NO. 2005-115 - ADDING TO THE FRESNO MUNICIPAL CODE ESTABLISHING A FIRE FACILITIES FEE

10. RESOLUTION - ADOPTING A FIRE FACILITIES FEE TO BE IMPOSED UPON FUTURE DEVELOPMENT IN THE CITY OF FRESNO PURSUANT TO THE FRESNO MUNICIPAL CODE (OPTION 1 - not adopted)

11. RESOLUTION NO. 2005-429 - ADOPTING A POLICE FACILITIES FEE TO BE IMPOSED UPON FUTURE DEVELOPMENT IN THE CITY OF FRESNO PURSUANT TO THE FRESNO MUNICIPAL CODE (OPTION 2)

President Dages announced the time had arrived to consider the issue and opened the hearing.

Public Works Director Healey gave an overview of the issue, recommended approval of the ordinances and resolutions with Option 2 for the fire and police facilities fees, and advised the citywide fees would become effective November 27th and the parkland dedication fee would become effective October 27, 2005.

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9/27/05

Speaking to the need for affordable housing for the disabled and low-income and to the need for a housing trust fund and/or a percentage of the fees to be set aside for housing assistance were: Carol Casey, S. Chestnut; Steve Orman, Broadway Plaza; Jose Luis Barraza, 4243 E. Thomas, member of the Fresno Housing Alliance and Co-Chair of the Housing Partnership for the Disabled; Yang Pao Her, E. Pine; Will Tranquilli; and Keith Berghold, W. Shaw. Mike Prandini, Building Industry Association, stated they supported the fees and reiterated their two concerns were the lack of a parks master plan for the parks fees and the method of calculation for the police and fire fees, and added the BIA understood the housing concerns expressed but stated it was not legal to siphon off funds directed for one purpose to another purpose.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Upon question of Councilmember Duncan, City Attorney Montoy confirmed only parks, police and fire fees were at issue this date, the City was required to use those fees solely for parks, police and fire, and there were other methods to address the housing issue. Councilmember Duncan thanked staff for the information submitted on parks and added he was supportive of Councilmember Westerlund's suggestion to appoint a parks task force to conduct a needs assessment; upon additional confirmation by the city attorney clarified Council could not arbitrarily increase fees as there was a very detailed process involved and added the urban legend that Council has refused to increase fees needed to be put to bed right now; and emphasized the Council has been very supportive of new fees, this was a new positive approach that would work, thanked staff for their many years of hard work, and made a motion to approve staff's recommendation.

Councilmember Sterling acknowledged councils have been negligent in not adjusting fees for the past 20 years; stressed affordable/accessible housing for the disabled and low-income needed to be addressed now or people would not be able to afford to buy homes; questioned if a parks master plan was going to be looked at why housing could not be included as housing dictated where parks will go; and stressed the inter-agency housing task force needed to address the issue and she wanted to see direction given to staff to put a mechanism in place. Ms. Montoy clarified the housing issue was separate and it was legally impermissible to include it this date, stated that matter needed to be placed on a future agenda and she would work with Councilmember Sterling to put it on, and relative to the request for housing set-aside funds clarified there were already requirements in place. Councilmember Boyajian concurred affordable housing was a problem but stated this was not the proper time to address it, and stated inclusionary zoning was needed and elaborated. Councilmember Sterling thanked Mr. Barraza and all others who provided her with information on affordable housing. **(5 - 0)** Upon question of Councilmember Boyajian, Mr. Healey advised staff would conduct studies and bring back new fee schedules annually.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-425, 2005-426, 2005-427, 2005-428 (Option 2) and 2005-429 (Option 2) hereby adopted, and the above entitled Bill Nos. B-107, B-108, B-109 and B-110 adopted as Ordinances Nos. 2005-112, 2005-113, 2005-114 and 2005-115 respectively, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

(2-B) RESOLUTION NO. 2005-430 - ADOPTING AN INVESTMENT POLICY FOR PUBLIC FUNDS FOR FY 2005-2006

A motion and second was made to adopt the resolution. Councilmember Calhoun presented questions and concerns at length relative to whether a policy change was being made here, if this was enforcing something already in place, perception of staff trying to introduce something new and not being truthful, need to know how much money has been spent locally/where the public funds have gone/haven't gone/what they've done, and request that staff get something in writing from banks that they do not keep that type of information, with Treasury Officer Wiles, City Attorney Montoy, City Manager Souza and Interim Controller/Finance Director Bradley responding and clarifying issues throughout. Councilmember Boyajian brought up the checking account issue a couple of years ago and questioned if it was important to have a policy on what the institutions/banks and/or investments do for the community and inner-city, with Mr. Souza and Mr. Wiles responding.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2005-430 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

146-91

9/27/05

(2-C) RESOLUTION NO. 2005-431 - AUTHORIZING THE PUBLIC WORKS PARKING SERVICES DIVISION AND FINANCE DEPARTMENT COLLECTIONS UNIT TO BEGIN A PARKING TICKET AMNESTY PROGRAM, WHICH WAIVES CITY IMPOSED PARKING PENALTIES IN EXCHANGE FOR IMMEDIATE PAYMENT OF PARKING FINES ISSUED FROM 12/1/02 THROUGH 6/30/05, IF PAID DURING THE PERIOD OCTOBER 15, 2005, THROUGH NOVEMBER 15, 2005

Parking Services Manager Madewell gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval; and Treasury Officer Wiles gave an overview of the Franchise Tax Board's intercept collection program.

Mr. Madewell, Mr. Wiles and City Manager Souza responded to questions/comments of Councilmember Boyajian and/or clarified issues relative to the city's collection procedures/process, the multiple approaches to the program, the facilities that depend on parking revenues, why an RFP could not be issued for collections, if flexible meter parking has been considered, need for a revenue and reimbursement department, and need for the city to be more aggressive and proactive with collections. Councilmember Calhoun made a motion to approve staff's recommendation, strongly urged that staff not keep falling back on this program stating he would not be happy to see another one come forth (with Mr. Souza responding), recommended staff contact the SCCCD stating they had a great collections program and explained, and suggested staff look at a private sector collection agency to assist the city stating they were specialists and very effective. Upon question of President Dages, Mr. Madewell stated staff was anticipating to collect 50% of the \$1.6 million in unpaid tickets at the minimum.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2005-431 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(9:30 A.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

("A") EXISTING LITIGATION - CASE NAME: CITY OF FRESNO V. TARGET CORP.; FRESNO METROPOLITAN FLOOD CONTROL DISTRICT; FRESNO IRRIGATION DISTRICT; STATE OF CALIFORNIA; W.J. FRENCH; H. HYRLEY; A.L. FUNCH; ELLEN FUNCH; PACIFIC SOUTHWEST REALTY COMPANY MONTGOMERY WARD DEVELOPMENT CORP.; THRIFTIMART, INC.; COUNTY OF FRESNO; THE PACIFIC TELEPHONE AND TELEGRAPH CO.; BR ENTERPRISE; GERALD A. SLATER; JOYCE S. SLATER; KRAUSZ ENTERPRISES; AND DOES 1 THRU 25, INCLUSIVE

("B") ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: CALTRANS V. CITY OF FRESNO (FANCHER CREEK)

("C") DECIDING WHETHER TO INITIATE LITIGATION - POTENTIAL CASE NAME: CITY OF FRESNO V. NATIONAL RAILROAD PASSENGER CORPORATION ("AMTRAK")

The City Council met in closed session in Room 2125 at the hour of 12:37 p.m. to consider the above matters.

CLOSED SESSION ANNOUNCEMENT:

Relative to Item "C", Amtrak, the City voted 5-1-1 to proceed with litigation with Councilmember Calhoun voting "no" and Councilmember Perea absent.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 12:53 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

Approved on the 4th day of October, 2005.

/s/ ATTEST: /s/
Mike Dages, Council President Yolanda Salazar, Assistant City Clerk